

Message Text

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ACTION EB-07

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R 110540Z APR 75

FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 9327

UNCLAS TOKYO 4730

E.O. 11652: N/A

TAGS: EIND, JA

SUBJECT: TRADEMARKS: JAPANESE APPLICATION FOR REGISTRATION
OF SMITHONIAN

REF: STATE A-508

1. YUASA AND HARA, PATENT LAW FIRM REPRESENTING SMITHSONIAN
INSTITUTION (SI), FILED OPPOSITION TO TRADEMARK APPLI-
CATION FOR SMITHONIAN BEFORE DEADLINE OF DECEMBER 2, 1974.
OPPOSITION BASED ON PROVISIONS OF ARTICLE 4, PARA 1, ITEMS 8
AND 15, OF JAPANESE TRADEMARK LAW.

2. SOME PATENT OFFICE TRADEMARK EXAMINERS ARE SENSITIVE TO
FOREIGN GOVERNMENT OPPOSITION TO TRADEMARK APPLICATION AFTER
OPPOSITION PERIOD EXPIRED. THEREFORE, TO AVOID RISK OF
NEGATIVE REACTION BY TRADEMARK EXAMINERS WITH POTENTIAL ADVERSE
EFFECT ON SI CASE, EMBASSY RELUCTANT FOLLOW THIS DIRECT
APPROACH UNTIL OTHER AVENUES EXHAUSTED.

3. SUBJECT TRADEMARK APPLICANT IS C. ITOH COMPANY
AND IN AUGUST 1973 EMBASSY SUCCEEDED HAVE C. ITOH
WITHDRAW ITS TRADEMARK APPLICATIONS FOR NAMES OF SEVERAL
FAMOUS NEW YORK DEPARTMENT STORES BY DIRECT APPROACH
THAT COMPANY. ACCORDINGLY, EMBASSY REQUESTED C. ITOH
WITHDRAW ITS APPLICATION FOR SMITHONIAN. HOWEVER,
C. ITOH LEGAL OFFICE STATED THIS CASE DIFFERS FROM
EARLIER CASE AND MORE CONCRETE REASON TO JUSTIFY WITH-
DRAWAL APPLICATION REQUIRED SINCE SI NOT RPT NOT
QTE MANUFACTURER UNQTE AND USE OF TRADEMARK SMITHONIAN
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WILL NOT RPT NOT CAUSE CONFUSION WITH CONSUMERS.

4. IN EARLIER CASE, LINK BETWEEN DEPARTMENT STORE AND MANUFACTURED PRODUCTS BEARING SUCH NAMES COULD BE CONSTRUED AS CONFUSING. C. ITOH WISHES TO AVOID CONFRONTATION WITH SI AND IF SUFFICIENT REASONS PROVIDED FOR OPPOSITION IT WILL GIVE FAVORABLE CONSIDERATION WITHDRAWING ITS TRADEMARK.

5. C. ITOH ASKED FOR COPIES OPPOSITION FILED BY YUASA PROVIDING BASIS FOR OPPOSITION. EMBASSY PROVIDED THESE DOCUMENTS WITH PERMISSION YUASA. C. ITOH EXPECTED REACH CONCLUSION SHORTLY AFTER REVIEW YUASA OPPOSITION

6. EMBASSY BELIEVES C. ITOH LEGAL STAFF SEEK FACCE SAVING RATIONALE TO JUSTIFY WITHDRAWAL TRADEMARK APPLICATION. YUASA OPPOSITION AND EMBASSY REPRESENTATION SHOULD PROVIDE C. ITOH LEGAL STAFF BASIS FOR CLAIMING TO THEIR MANAGEMENT IN EFFECT INITIAL APPLICATION (APPROVED BY LEGAL STAFF) WAS VALID BUT IN THE INTEREST OF GOOD RELATIONS WITH U.S. EMBASSY AND SI, C. ITOH SHOULD WITHDRAW APPLICATION.

7. WILL CABLE SOON AS REPLY RECEIVED FROM C. ITOH.
SHOESMITH

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